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Attorneys for Defendants  
MERRITT COLLEGE  
and SHIRLEY MACK

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

ELIZABETH SANTOS

Plaintiff,

vs.

MERRITT COLLEGE, SHIRLEY MACK, an  
individual and DOES 1-10, inclusive,

Defendants.

CASE NO. C 07 5227 EMC

**DECLARATION OF ALYSON  
CABRERA IN SUPPORT OF  
DEFENDANTS' REPLY TO  
PLAINTIFF'S OPPOSITION TO  
DEFENDANTS' MOTION TO  
DISMISS PLAINTIFF'S FIRST  
AMENDED COMPLAINT**

Date: January 3, 2008  
Time: 2:30 p.m.  
Judge: Hon. Edward M. Chen  
Location: Courtroom C, 15<sup>th</sup> Fl.

Accompanying Papers:  
Reply to Plaintiff's Opposition

I, ALYSON CABRERA, declare:

1. I am an attorney at law licensed to practice before all courts of the State of California and am an Associate with the law firm of Gordon & Rees LLP, counsel for Defendants MERRITT COLLEGE and SHIRLEY MACK.

2. I have personal knowledge of the matters contained in this declaration and if called to testify to them, I could and would do so competently.

3. Attached hereto as **Exhibit 1** is a true and correct copy of correspondence from

1 Defense counsel to Plaintiff's counsel, Kjell C. Bomark-Noel, dated August 28, 2007.

2 I declare under penalty of perjury under the laws of the State of California that the  
3 foregoing is true and correct. Executed this 18th day of December, 2007 in San Francisco,  
4 California.

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6 Alyson Cabrera

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**EXHIBIT 1**

STEPHANIE B. BRADSHAW  
SBRADSHAW@GORDONREES.COM

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GORDON & REES LLP

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August 28, 2007

Kjell C. Bomark-Noel  
Law Offices of Bomark-Noel  
1124 E. 14th St.  
Suite B  
San Leandro, CA 94577

Re: Elizabeth Santos v. Merritt College, et al.  
Alameda County Superior Court Case No. HG07335828

Dear Mr. Bomark-Noel:

It was a pleasure speaking with you last Friday.

This will confirm our conversation wherein Plaintiff Elizabeth Santos ("Plaintiff") granted Defendant Merritt College ("Defendant") a 30-day extension, through and including **October 1, 2007**, to file a responsive pleading to Plaintiff's July 16, 2007 Complaint.

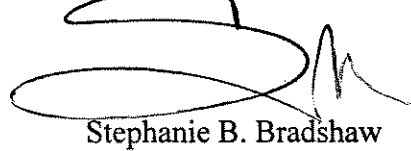
In the meantime, Plaintiff agreed to prepare and file a First Amended Complaint. In that Complaint, Plaintiff agreed to strike her punitive damage claim, as she cannot obtain such damages from Defendant, a public entity. (Government Code §818.) You have also agreed, on behalf of your client, to reconsider Plaintiff's claims under the Fair Employment and Housing Act ("FEHA") in light of Defendant's position that the FEHA does not apply to this action as there was no employer-employee relationship between Plaintiff and Defendant. (Government Code §§ 12940, *et al.*) We further requested that you amend your complaint to demonstrate Plaintiff's compliance with California's Tort Claims Act, as codified in Government Code Sections 910, *et seq.* At the same time, please be advised that, irrespective of the reference to a government claim, Plaintiff cannot assert a negligence (non-statutory) claim against Defendant — this includes a "negligent misrepresentation" claim, based on Defendant's public entity status. Please omit this claim from Plaintiff's First Amended Complaint.

Kjell C. Bomark-Noel  
August 28, 2007  
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I look forward to receipt of your amended complaint in the next few weeks. In the meantime, please feel free to contact me to discuss these issues or, indeed, any issue related to this matter.

Sincerely,

GORDON & REES LLP

A handwritten signature in black ink, appearing to be 'Stephanie B. Bradshaw', written over the firm name.

Stephanie B. Bradshaw

SBB/bl

cc: Alyson Cabrera